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From: Ingrid Wieser
To: Suzanne Steab
CC: Daron Haddock
Date: 4/13/2009 8:47 AM
Subject: Fwd: Deer Creek Minor Coal Exploration
Attachments: TA_#3089.doc; iw3089f.doc

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Hi Suzanne-

Can you please include this email on the CTS for task # 3089 Thanks!

>>> Ingrid Wieser 4/13/2009 8:45 AM >>>
Dennis-

It recently came to my attention that the response to task 3089 (Deer Creek NOI for Minor Coal Exploration) may not have included all of the deficiencies. We unfortunately had a mis-communication and our response was sent out before the Application received a biology and cultural resource review. In order to save time, hopefully you can add these new deficiencies to the list and respond to them in your next submittal. If you already were aware of the new deficiencies, then you can disregard this email and we will await your response. I have attached the updated technical analysis with new information in the biology and cultural resources sections as well as in the deficiency section. Please let me know if you have any questions, Thank you!

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TECHNICAL MEMORANDUM

Utah Coal Regulatory Program

December 15, 2008

TO: Internal File

THRU: Steve Demczak, Lead

FROM: Ingrid Wieser, Biology, Cultural Resources

SUBJECT: Notice of Intent to Conduct Minor Coal Exploration, Energy West/ PacifiCorp, Deer Creek Mine, C/015/0018, Task ID #3089

SUMMARY:

On November 20, 2008, Energy West Mining, a PacifiCorp subsidiary, submitted a letter of intent to conduct Minor Coal Exploration between May and August of 2009 to the Division. Energy West proposes to helicopter drill six holes in the Joes Valley and Mill Fork staging areas. The six proposed drill holes are located within the company's current Utah State Coal Lease ML-48258 in Sections 1 and 11, Township 16 South, Range 6 East, Salt Lake Base and Meridian. The drilling will occur on USFS lands.

This Memo will address the Cultural Resources and Biology sections of the application.

EXPLORATION TECHNICAL MEMO

EXPLORATION TECHNICAL ANALYSIS:

OPERATIONAL STANDARDS

Regulatory Reference: 30 CFR 772.13; R645-202-100.

Analysis:

Biology

The Applicant states that the vegetation information for the proposed area can be found in the Deer Creek MRP, volume 12, pages 3-1 to 3-5, and the map of the vegetation is in the MRP labeled MFS1821D. The vegetation consists of Cottonwood/Aspen/Fir/ Dogwood communities at the bottom of the canyons. Spruce-Fir Coniferous Forest dominates the slopes with aspen communities inter-mixed on the South facing slopes. No threatened or endangered plant species occur within the project area according to Bob Thompson, Botanist with the Manti –La Sal National Forest.

The Environmental Assessment included in Deer Creek Mine's MRP prepared by the Manti-La Sal National Forest provides a description of the wildlife species found in the area. According to the report, no threatened or endangered wildlife occurs within the Mill Fork lease area.

The Applicant included a map of the proposed drilling flight lines as well as locations of Golden Eagle nests based on a DWR Raptor Survey conducted in May of 2007 and 2008. A tended Golden Eagle nest (#1210) is located within a half mile of drill site 2009-6. If tended in 2009, the drill site will be subject to the exclusionary period and Energy West has committed to scheduling potential activities for 2009-6 after July 15, 2009 or after the young have fledged the nest. Also, the Applicant lists Northern Goshawk as a management indicator specie for the Manti –La Sal National Forest. The EIS prepared by the Forest Service states that if active, no activity can occur within a 30 acre buffer of the active nests between March 1 and September 30 and no construction, drilling or commercial traffic will be allowed within .5 miles of an active nest between march 1 and August 15. Three Goshawk nests have been located in the area, and identified on the 2009 Coal Exploration map included with the application. All flight paths are distributed so that they do not impact the birds or territories.

Findings:

The Applicant did not meet the minimum regulatory requirements of this section and must comply with the following:

R645-202-100: The Applicant must include a list of current Threatened and Endangered species in the area.

HISTORIC AND ARCHEOLOGICAL RESOURCE INFORMATION

Regulatory Reference: 30 CFR 783.12; R645-301-411.

Analysis:

On Page 9 of the Notice of Intent to Conduct Minor Coal Exploration, the Applicant states that EarthTouch, LLC conducted a Class I file search and a Class III survey of five of the proposed 2009 drill sites located in Joe's Canyon and a copy of the report is on file with the Division. No such report exists with the division. EarthTouch has only conducted these surveys for Section 12 of T16S R6E for drill locations proposed for 2008. The Applicant stated that additional drill sites such as 2009-6 would be surveyed on the surface prior to drilling.

Findings:

The Applicant has not met the minimum regulatory requirements of this section and must comply with the following:

R645-202-100: The Applicant needs to provide the Class I and Class III Cultural resource surveys conducted by EarthTouch LLC in 2008. Also, *all six* of the proposed 2009 drill sites need to be surveyed for cultural resources before approval. All surveys must be have SHPO concurrence prior to approval.

RECLAMATION STANDARDS

Regulatory Reference: 30 CFR 772.13; R645-202-200.

EXPLORATION TECHNICAL MEMO

Analysis:

Revegetation

Page 14 of the notice of intent states that all disturbed areas will be seeded or planted with native flora or crops used for agriculture in the area. The application also includes a seed mix on page 15 that will be hand broadcast and raked. Any dead-fall that was removed from the drill site will also be replaced.

Findings:

The Applicant met the minimum regulatory requirements for this section.

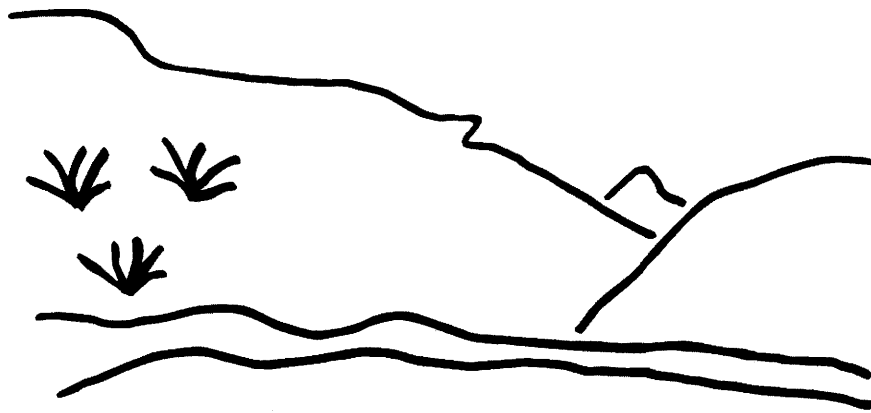
RECOMMENDATIONS:

The Letter of Intent cannot be approved at this time. The Applicant must comply with the following:

R645-202-100: The Applicant must include a list of current Threatened and Endangered species in the area.

The Applicant needs to provide the Class I and Class III Cultural resource surveys conducted by EarthTouch LLC in 2008. Also, *all six* of the proposed 2009 drill sites need to be surveyed for cultural resources before approval. All surveys must have SHPO concurrence prior to approval.

State of Utah



Utah Oil Gas and Mining

Coal Regulatory Program

Deer Creek Mine
PacifiCorp
C/015/018
Task ID #3089
Minor Exploration Analysis and Findings
4/13/2009

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INTRODUCTION

EXPLORATION TECHNICAL ANALYSIS

INTRODUCTION

Energy West the operator of PacifiCorp is proposing to conduct a helicopter-assisted minor coal exploration drilling during the year 2009. The applicant has plans to core-drill four holes by using this method. The proposed drill is located within the current Utah State Coal Lease ML-48258, and the United States Forest Service administers the surface land. This project is to analyze seam characteristics and coal thickness of the Hiawatha and Blind Canyon coal seams.

The holes will be drilled using a helicopter-transported drill rig in accordance with the Utah State Coal Lease ML-48258 application for the Notice of Intention of Conduct Minor Coal Exploration. Less than 250 tons of coal will be removed. The applicant has recently conducted minor exploration using this method at Mill Fork Canyon and adjacent areas.

The Division will need concurrence from School and Institutional Trust Lands Administration and US Forest Service with this proposed notice of intent to conduct minor coal exploration on coal lease ML 48258.

The minor exploration project is scheduled to start on May 15, 2009 and be completed by August 15, 2009.

SUMMARY OF OUTSTANDING DEFICIENCIES

The Technical Analysis regarding the proposed permit changes is not complete at this time, pending submittal of additional information by the Permittee and further review by the Division, to address outstanding deficiencies in the proposal. A summary of those outstanding deficiencies is provided below. Additional comments, concerns, and deficiencies may also be found within the analysis and finding make in the Draft Technical Analysis, which have not been presented in this summary. Upon finalization of this review, any outstanding deficiencies will be evaluated for compliance with the regulatory requirements. Such deficiencies may be conditioned to the requirements of the permit issued by the Division, result in denial of the proposed permit changes, or may result in other executive or enforcement actions as deemed necessary by the Division at that time to achieve compliance with the Utah Coal Regulatory Program.

Accordingly, the permittee must address those deficiencies as found within this Draft Technical Analysis and provide the following, prior to approval, in accordance with the requirements of:

R645-200-230, Prior to conducting minor exploration, the Division must receive concurrence from U. S. Forest Service and SITLA.

R645-202-232, Prior to conducting minor exploration, the applicant must show proof of receiving a Special Road Use Permits from the U. S. Forest Service.

R645-202-234, The applicant must show necessary proof of obtaining water rights to conduct drilling in the exploration area.

R645-202-236, The applicant must provide the MSDS sheets for the drilling fluids to verify that acid and toxic materials will not be used as stated in the Letter of Intent. The applicant should revise acid-toxic statements.

R645-202-100: The Applicant must include a list of current Threatened and Endangered species in the area.

The Applicant needs to provide the Class I and Class III Cultural resource surveys conducted by EarthTouch LLC in 2008. Also, *all six* of the proposed 2009 drill sites need to be surveyed for cultural resources before approval. All surveys must have SHPO concurrence prior to approval.

SUMMARY OF PERMIT CONDITIONS

As determined in the analysis and findings of this Technical Analysis, approval of the

SUMMARY OF OUTSTANDING DEFICIENCIES

plan is subject to the following Permit Conditions. The applicant is subject to compliance with the following Permit Conditions and has committed to comply with the requirements of these conditions as referenced in the approved Permit.

Accordingly, the permittee has committed to comply with the requirements of the following Permit Conditions, as specified, and in accordance with the requirements of:

COAL EXPLORATION

Regulatory Reference: R645-200.

SCOPE AND RESPONSIBILITIES

Regulatory Reference: 30 CFR 772.1; 30 CFR 772.10; 30 CFR 772.11; R645-100-400; R645-200-100; R645-200-200; R645-201-100.

Analysis:

PacifiCorp has proposed to conduct minor exploration by drilling drill hole six (6) within the Mill Fork Coal Lease ML-48258 in the year 2009.

The applicant has committed to comply with the requirements of R645-200 through R645-203.

This minor coal exploration will be conducted on Utah State Coal Lease ML-48258 and the United States Forest Service administers the surface land; therefore, 43 CFR Part 3480-3487 does not apply.

Findings:

The applicant has not met the minimum requirements of this section. The Division must receive the following information.

R645-200-230, Prior to conducting minor exploration, the Division must receive concurrence from U. S. Forest Service and SITLA.

R645-202-232, Prior to conducting minor exploration, the applicant must show proof of receiving a Special Road Use Permits from the U. S. Forest Service.

R645-202-234, The applicant must show necessary proof of obtaining water rights to conduct drilling in the exploration area.

REQUIREMENTS FOR NOTICE OF INTENTION TO CONDUCT MINOR COAL EXPLORATION

Regulatory Reference: 30 CFR 772.10; 30 CFR 772.11; R645-100-412; R645-201-200.

PUBLIC AVAILABILITY OF INFORMATION

Analysis:

Coal Rule R645-201-221 requires the applicant to give name, address, and telephone number of the applicant's representatives, who will be present at and responsible for conducting the exploration operations. This information has been submitted in the Notice of Intent, Page 2.

R645-100-400, R645-200-100, R645-200-200, and R645-201-100; Energy West Mining has given a Notice of Intention to Conduct Minor Coal Exploration with a narrative and maps describing the exploration area and indicating where the exploration will occur. The permittee will transport drilling equipment, materials, and personnel by helicopter. The drill sites will be relatively level (30 percent slope or less). There will be no removal of vegetation such as grasses and trees, but deadfall and some taller shrubs maybe removed.

The drill site will not be greater than 40 feet by 40 feet area. Brattice or other similar material will be placed on the ground beneath the drill rig. Minor digging, using hand tools may be necessary to level the drill rig using wood block or other materials.

A maximum of twenty pounds of coal will be removed per drill hole with a total of about 220 pounds from all the drill holes. This will be achieved by drilling a three-inch diameter hole. Upon completion, the drill hole will be sealed with cement from the bottom of the hole to ground level.

The minor exploration project is scheduled to start on May 15, 2009 and be completed by August 15, 2009.

Findings:

The applicant has met the minimum requirements of this section.

COMPLIANCE DUTIES

Regulatory Reference: 30 CFR 772.13; R645-202.

Analysis:

The applicant stated to have a copy of the Notice of Intent to Conduct Minor Coal Exploration for review by an authorized representative of the Division upon request.

Findings:

The applicant has met the minimum requirements of this section in the R645 Coal Rules.

OPERATIONAL STANDARDS

Regulatory Reference: 30 CFR 772.13; R645-202-100.

Analysis:

Biology

The Applicant states that the vegetation information for the proposed area can be found in the Deer Creek MRP, volume 12, pages 3-1 to 3-5, and the map of the vegetation is in the MRP labeled MFS1821D. The vegetation consists of Cottonwood/Aspen/Fir/ Dogwood communities at the bottom of the canyons. Spruce-Fir Coniferous Forest dominates the slopes with aspen communities inter-mixed on the South facing slopes. No threatened or endangered plant species occur within the project area according to Bob Thompson, Botanist with the Manti –La Sal National Forest.

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The Applicant included a map of the proposed drilling flight lines as well as locations of Golden Eagle nests based on a DWR Raptor Survey conducted in May of 2007 and 2008. A tended Golden Eagle nest (#1210) is located within a half mile of drill site 2009-6. If tended in 2009, the drill site will be subject to the exclusionary period and Energy West has committed to scheduling potential activities for 2009-6 after July 15, 2009 or after the young have fledged the nest. Also, the Applicant lists Northern Goshawk as a management indicator specie for the Manti –La Sal National Forest. The EIS prepared by the Forest Service states that if active, no activity can occur within a 30 acre buffer of the active nests between March 1 and September 30 and no construction, drilling or commercial traffic will be allowed within .5 miles of an active nest between march 1 and August 15. Three Goshawk nests have been located in the area, and identified on the 2009 Coal Exploration map included with the application. All flight paths are distributed so that they do not impact the birds or territories.

Cultural Resource Information

On Page 9 of the Notice of Intent to Conduct Minor Coal Exploration, the Applicant states that EarthTouch, LLC conducted a Class I file search and a Class III survey of five of the proposed 2009 drill sites located in Joe's Canyon and a copy of the report is on file with the Division. No such report exists with the division. EarthTouch

PUBLIC AVAILABILITY OF INFORMATION

has only conducted these surveys for Section 12 of T16S R6E for drill locations proposed for 2008. The Applicant stated that additional drill sites such as 2009-6 would be surveyed on the surface prior to drilling.

Roads

PacifiCorp will use only existing roads for this project no new roads will be constructed. The applicant of the Notice of Intent will be using US Forest Service roads for staging areas of heavy equipment. The US Forest Service will be notified 48 hours in advance of heavy equipment traveling on the road.

The applicant will be using U.S. Forest Development Roads #245 and #040 and #017. Prior to drilling, Energy West will obtain a permit for the use of these roads.

Topsoil

Topsoil will be separately removed, stored, and redistributed on areas disturbed by coal exploration activities. The method of drilling used by PacifiCorp will disturb a small amount of topsoil. The leveling of the drill rig and associated equipment may require a small amount of excavation. Brattice cloth is to be used to cover the ground to protect the topsoil and surface vegetation.

Diversions of Overland flows and streams

The applicant will not construct diversions or affect overland flows and streams. However, the applicant will be pumping water from streams for the drilling operation. The method is to lay an intake hose directly into the stream and pump the water to the drill site. The pump will be located near the stream. Using this method will not disturb the stream.

PacifiCorp will obtain the necessary permissions and water rights actions to take water for drilling from local drainages. A temporary exchange application will be filed to State of Utah, Division of Water Rights. The amount of water required for the project is estimated at 80,000 gallons for the entire drilling project or 40,000 gallons per hole.

Hydrologic Balance

The minor exploration project will have minor surface disturbance. The disturbance is limited to leveling the rig and associated structures. There will be no construction of a drill pad or impoundments; therefore, the impact on the hydrologic balance will be minimal, if any.

SUMMARY OF OUTSTANDING DEFICIENCIES

Acid- or toxic forming materials

The applicant states, "Acid or toxic forming materials will be handled and disposed of in accordance with R645-301.110, R645-301.300 and R645-301-553.260" which is a fair statement. The next sentence/statement is "No acid- toxic earth materials or coal waste will be produced used or handled during the drilling program. This statement is in conflict will the first statement and the applicant cannot grantee drill cutting will not be acid – toxic before drilling. A statement such as, "Past drilling has shown no acid – toxic materials have ever been produced and is likely not to occur" maybe a better statement.

Findings:

The applicant does not meet the minimum requirements of this section.

R645-202-236, The applicant must provide the MSDS sheets for the drilling fluids to verify that acid and toxic materials will not be used as stated in the Letter of Intent. The applicant should revise acid-toxic statements.

R645-202-100: The Applicant must include a list of current Threatened and Endangered species in the area.

R645-202-100: The Applicant needs to provide the Class I and Class III Cultural resource surveys conducted by EarthTouch LLC in 2008. Also, *all six* of the proposed 2009 drill sites need to be surveyed for cultural resources before approval. All surveys must be have SHPO concurrence prior to approval.

RECLAMATION STANDARDS

Regulatory Reference: 30 CFR 772.13; R645-202-200.

Analysis:

Approximate original contour

The drill site areas will be basically flat with no major excavation occurring. Minor shoveling may be needed for leveling the drill rig. The area will be at approximate original contour.

Revegetation

PUBLIC AVAILABILITY OF INFORMATION

Page 14 of the notice of intent states that all disturbed areas will be seeded or planted with native flora or crops used for agriculture in the area. The application also includes a seed mix on page 15 that will be hand broadcast and raked. Any dead-fall that was removed from the drill site will also be replaced.

Boreholes

Groundwater is not anticipated. However, if ground water is present it will be reported to SITLA, USFS, and DOGM and a determination will be made regarding the modification of the drill hole to a monitoring well.

Upon completion, each drill hole will be completely sealed with cement/bentonite from the bottom of the hole to ground level. Enough cement will be mixed and pumped into the hole to completely seal the coal horizon. The remainder of the hole will be filled completely with bentonite slurry to within five feet of the surface. A cement surface plug will fill the top five feet. A brass monument marker will be placed in the top of the cement surface plug with the hole number and year.

Facilities and Equipment

All drilling equipment and materials will be removed from the drill area once drilling is completed. Sealing will start thereafter and all equipment and material for sealing drill holes will be removed when sealing is completed.

Findings:

The applicant has met the minimum requirements of this section in the R645 Coal Rules.

PUBLIC AVAILABILITY OF INFORMATION

Regulatory Reference: 30 CFR 772.15; R645-203.

Analysis:

All information submitted to the Division under R645-200 will be made available for public inspection except as provided in R645-203-200.

Findings:

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C/0015/0018
Task ID #3089
April 13, 2009

SUMMARY OF OUTSTANDING DEFICIENCIES

The applicant has met the minimum requirements of this section in the R645 Coal Rules.

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